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*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
*Washington, D.C. 20554*

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of the Commission's )  
Rules to Preempt State and Local )  
Regulation of Tower Siting for )  
Commercial Mobile Service Providers )

RM 8577

DOCKET FILE COPY ORIGINAL

Reply to Comments Regarding  
The Cellular Telecommunications Industry Association's  
Petition for Rulemaking  
by  
**NEW PAR**

New Par respectfully submits this reply to comments submitted in support of and in opposition to the Petition for Rulemaking filed with the Commission on December 22, 1994 by the Cellular Telecommunications Industry Association ("CTIA"). New Par, through partnerships or subsidiaries, is the nonwireline cellular service provider in 22 MSAs and RSAs in Michigan and Ohio, including five of the nation's 40 largest MSAs. Accordingly, New Par has a direct and continuing interest in the outcome of this proceeding.

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**1. The Commission Should Institute a Rulemaking Proceeding.**

The Petition for Rulemaking filed by CTIA has unleashed a wealth of comment from major representatives of the telecommunications industry as well as political leaders and citizens who are concerned about their environment and the quality of their lives. The broad range of commenters as well as the diametrically opposed views expressed in these comments amply demonstrate that CTIA's petition deals with a vital topic. The imminent arrival of Personal Communications Services licensees, who will also require sites, indicates that the need for a careful study of the issues is urgent. A full notice and comment rulemaking proceeding is the best method of ensuring a result that respects the rights of individuals, property owners, communities, and states, while at the same time fulfills the Commission's goal of providing the public with efficient, seamless, nationwide wireless communications.

**2. New Par Supports Preemption of Local Zoning Regulations.**

As an experienced and established wireless communications provider, New Par has encountered the same problems described by other Commercial Mobile Radio Service ("CMRS") providers in comments filed in this proceeding. Additionally, New Par has amassed files of its own battle stories in which inconsistent and imprudent statutes, ordinances, and decisions have

hindered the expedient provision of mobile communications services to the public. Optimal cell siting has been delayed or prevented entirely by, *inter alia*, disputes between city government officials and the same city's planning board or city council; government bodies swayed into countermanding established policy and regulations by public outcry of well-meaning but badly informed citizens; and communities that want the advantages of wireless communications, but flat out refuse to allow cellular towers because of aesthetics or unfounded fears. Often the public has been forced to accept compromises in the provision of mobile services because of citizen groups that have used scare tactics based on unsubstantiated safety claims to prevent tower construction in areas where local zoning regulations should allow it.

New Par is a responsible member of the community in each market in which it provides cellular services. Furthermore, as a commercial enterprise, New Par has no desire or intention to alienate citizens who are potential customers. New Par's cell sites are carefully scouted and engineered to provide the most efficient service with the least amount of intrusion and without creating an environmental impact or safety hazard. New Par believes that the other cellular carriers in the United States are equally responsible and concerned. However, when faced with a maze of regulations from tower painting and lighting requirements to restrictions on lot size, frontage, tower

height, and landscaping, all of which are in no way required by public safety, the expansion and improvement of CMRS to the public often grinds to a halt. These local restrictions have actually prevented the provision of cellular service to some areas. Reasoned, consistent, comprehensive, and workable regulations are badly needed and New Par supports those petitioners who believe that only the preemption of state and local regulation by a federal CMRS tower site policy will serve the needs of the industry, government, and individuals.<sup>1</sup>

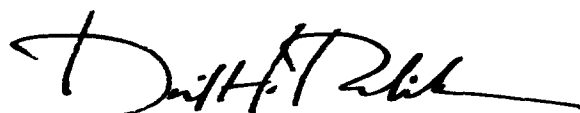
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<sup>1</sup> Among the parties whose comments New Par supports are Sprint Corporation, a direct competitor in some of New Par's markets, demonstrating that these issues are not brought for competitive advantage, but for furtherance of the public interest.

For the reasons expressed above, New Par respectfully urges the Commission to grant CTIA's petition and implement a rulemaking proceeding in this most important and urgent matter.

Respectfully submitted,

NEW PAR

A handwritten signature in black ink, appearing to read "David H. Pawlik", written over a horizontal line.

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March 6, 1995

CERTIFICATE OF SERVICE

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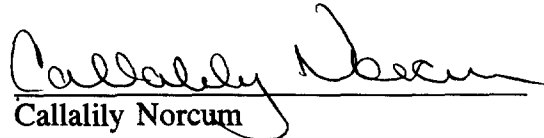
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